



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mauldin, Sidney Wayne

Application No.: 10/750,108

Group No.: 3672

Filed: 12/31/03

Examiner: Tsay, Frank

For: Minimal Resistance Scallop for a Well Perforating Device

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

TO THE ASSISTANT COMMISSIONER FOR PATENTS

SIR:

PETITION

1. Applicant petitions that the abandonment set forth in the notice mailed by the Office on July 19, 2006 be withdrawn.
2. The abandonment was based on Applicant's failure to timely file a proper reply to the Office Action mailed on December 6, 2005. That is somewhat incorrect or misleading as Applicant

CERTIFICATION UNDER 37 C.F.R. 1.10

I hereby certify that this correspondence and the documents referred to as attached therein are being deposited with the United States Postal Service on this date September 5, 2006, in an envelope as "Express Mail Post Office to Addressee", mailing Label Number ER 539844718 US, addressed to the: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 9-5-06

Brian E. Powley

09/07/2006 MGBREM1 00000078 10750108

01 FC:1462

400.00 DP

did respond to that Office Action with a one month extension and a Response dated April 4, 2006. What Applicant did not respond to was an Advisory Action Before the Filing of an Appeal Brief mailed May 4, 2006 and a Supplemental Advisory Action Before the Filing of an Appeal Brief mailed May 12, 2006. The reason that Applicant did not respond is that neither of these two documents were received by Applicant's Attorney. The first Advisory Action was mistakenly returned by my Post Office as Box Closed as shown on the envelope from the File Wrapper. My Post Office Box was never closed and is paid for semiannually at the end of May and the end of November. My Post Office cannot tell me why it was returned as Box Closed and believe it happened prior to them receiving it and that it never got to my Post Office Box. That piece of improperly returned mail would not be of consequence if the Supplemental Advisory Action mailed just a week later was received but it also was not received. The File Wrapper shows a completely erroneous addressed envelope to Philips Electronic. Whether it really went to that address or was improperly scanned into the File Wrapper and was returned for the same reason as the first Advisory Action, it was never received by the Applicant's Attorney. Applicant would have responded to either of the Advisory Actions with a Notice of Appeal and will now do so.

SUBMISSION

3. Submitted herewith are:

A copy of the Notice of Abandonment.

A copy of the Return Receipt Postcard dated April 6, 2006 as proof of response to the Office Action.

A copy of the first Advisory Action mailed May 4, 2006 and envelope marked Box Closed from the File Wrapper.

A copy of the Supplemental Advisory Action mailed May 12, 2006 and envelope
with the wrong address from the File Wrapper.

Notice of Appeal.

4. Please proceed with further examination of this application on the basis of:
The Notice of Appeal.

PETITION FEE

5. The petition fee (37 C.F.R. 1.17(f)) is paid as follows:
Check No. 1063 in the sum of \$400.00.

A duplicate of this paper is attached

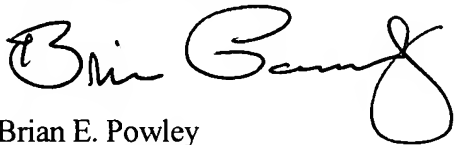
REQUEST FOR REFUND OF PETITION FEE

6. As Applicant's Attorney never received the two Advisory Actions, a refund of the petition
fee submitted herewith is respectfully requested.

REQUEST FOR WITHDRAWAL OF ABANDONMENT

7. Acknowledgment of the active status of this application and time for filing the Appeal Brief
are respectfully requested.

Respectfully submitted,

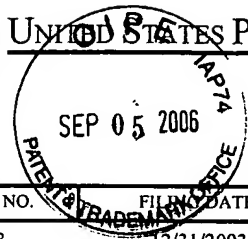
A handwritten signature in black ink, appearing to read "Brian E. Powley". The signature is fluid and cursive, with a large loop at the end.

Brian E. Powley
Registration No. 43,437
P.O. Box 720415
Oklahoma City, OK 73172-0415
PH: 405-722-3663

Attorney for Applicant



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,108	12/31/2003	Sidney Wayne Mauldin		9606

7590 07/19/2006
Brian E. Powley
Brian E. Powley, P.L.L.C.
P.O. Box 720415
Oklahoma City, OK 73172-0415

EXAMINER

TSAY, FRANK

ART UNIT	PAPER NUMBER
----------	--------------

3672

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



Notice of Abandonment

Application No.

10/750,108

Examiner

Frank S. Tsay

Applicant(s)

MAULDIN, SIDNEY WAYNE

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 06 December 2005.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Frank S Tsay
Primary Examiner
Art Unit: 3672

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



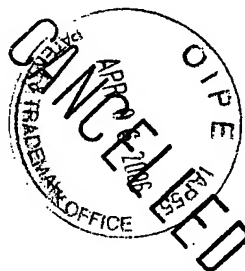
CONFIRMATION OF RECEIPT

APPLICATION NUMBER: 10/750,108

APPLICANT: Sidney Wayne Mauldin, Pampa, TX

TITLE OF PAPER: RESPONSE TO FINAL OFFICE ACTION

FEE: none



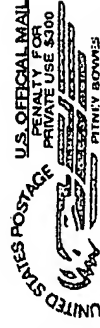


Organization **TO 3400** Bldg./Room **KNOX**
UNITED STATES PATENT AND TRADEMARK OFFICE

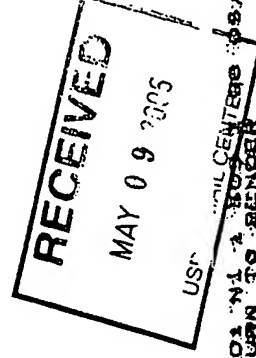
P.O. Box 1450
Alexandria, VA. 22313-1450
If Undeliverable Return In Ten Days

Official Business
Penalty For Private Use, \$300

AN EQUAL OPPORTUNITY EMPLOYER



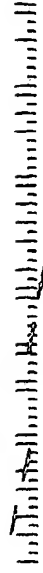
MAILED FROM ZIP CODE 22314



POWLEY

201 N 14th St
Alexandria, VA 22314-1450

BOX CLOSED
UNABLE TO FORWARD
RETURN TO SENDER



73172+04152233026450



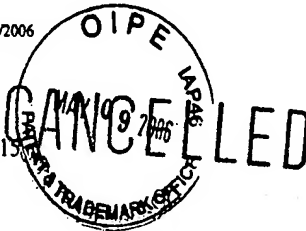
UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov



APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,108	12/31/2003	Sidney Wayne Mauldin		9606

7590 05/04/2006
Brian E. Powley
Brian E. Powley, P.L.L.C.
P.O. Box 720415
Oklahoma City, OK 73172-0415



EXAMINER

TSAY, FRANK

ART UNIT	PAPER NUMBER
----------	--------------

3672

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/750,108

Applicant(s)

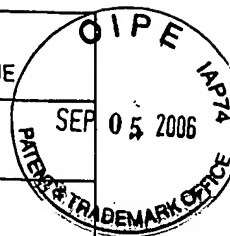
MAULDIN, SIDNEY WAYNE

Examiner

Frank S. Tsay

Art Unit

3672



--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection. 7
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-14.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Frank S Tsay
Primary Examiner
Art Unit: 3672

Continuation of 11. does NOT place the application in condition for allowance because: The arguments or remarks are incomplete and fail to address the specific issues relative to the 102 rejections..



Bldg./Room _____
MARK OFFICE

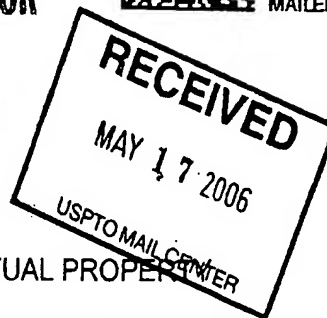
AN EQUAL OPPORTUNITY EMPLOYER



UNITED STATES POSTAGE
U.S. OFFICIAL MAIL
PENALTY FOR
PRIVATE USE \$300
FITZLY BOWLES
02 1A \$ 00.39⁰
0004204479 MAY 15 2006
MAILED FROM ZIP CODE 22314



RETURNED FOR
BETTER
ADDRESS

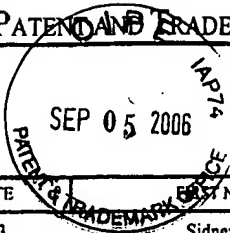


JOHN F. VODOPIA
SENIOR INTELLECTUAL PROPERTY
COUNSEL
PHILIPS INTELLECTUAL PROPERTY &
STANDARDS PHILIPS ELECTRONIC NORTH
AMERICA CORPORATION
PO BOX 3001



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov



APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,108	12/31/2003	Sidney Wayne Mauldin		9606

7590

05/04/2006

Brian E. Powley
Brian E. Powley, P.L.L.C.
P.O. Box 720415
Oklahoma City, OK 73172-0415

EXAMINER

TSAY, FRANK

ART UNIT PAPER NUMBER

3672

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

(Supple mental)

Application No.

10/750,108

Applicant(s)

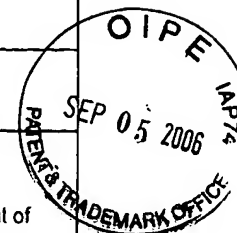
MAULDIN, SIDNEY WAYNE

Examiner

Frank S. Tsay

Art Unit

3672



--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-14.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Frank S Tsay
Primary Examiner
Art Unit: 3672

Continuation of 11. does NOT place the application in condition for allowance because: The examiner believes that the language such as "an arched geometric shape for said penetration area" or " an arched geometric shape in said inwardly shaped hole penetration area" fail to distinguish from Walker, particularly in that of Fig. 9, which has indeed clearly shown an "arched geometric shape" in its cross sectional view. Whether the claimed invention performed differently from Walker has never been an issue, since the claims in the present form do not present such supports.